REMARKS

The above-identified application is United States application serial number 10/792,150 filed on March 3, 2004. Claims 1-18 are pending in the application. Claims 1-4 are rejected. Claims 5-18 have been added.

Obviousness-Type Double Patenting

Claim 1 is rejected on obviousness-type double patenting grounds over claims 1, 7, and 8 of commonly-owned U.S. Pat. 6,738,933. In response, Applicant is filing a terminal disclaimer herewith to overcome this rejection.

Rejection of Claim Under 35 USC §102

Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Hind *et al.* (U.S. Pat. Pub. No. 2004/0054695) (hereinafter "Hind"). Claim 1 recites "with the instrumentation component, instrumenting said code of the Java component to add functionality for tracking execution times." In contrast, Hind only teaches inserting problem determination probes in computer systems running a program that malfunctions or fails to perform as expected. (Hind, paras. [0039] and [0042]). Hind further teaches using probes to implement patches in programs that are malfunctioning. (Hind, para. [0053]). Nothing in Hind teaches or suggests that the probes are used to track execution times, as set forth in claim 1. Rather, the probes in Hind are used to generate trace data and implement patches for malfunctioning programs. These shortfalls of the prior art at the time the present application was filed are discussed in specification paragraph [0006]. Claim 1 is distinguishable from the prior art for at least these reasons.

Claims 2-18 depend from independent claim 1 and include features that further distinguish them over the cited references. For example, claim 3 recites "functionality for detecting when the Java component is invoked by a colored transaction request message so overhead associated with tracking the execution times is not incurred with respect to transactions executed by real users." This

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feature is supported by at least the abstract and paragraphs [0009], [0036], [0045], and [0061] of the specification. In contrast, Hind creates a list of patterns that match all of the specific classes that require the probes, but does not disclose or suggest that the patterns can be used to avoid the overhead associated with executing the probes with respect to transactions executed by real users. (Hind, para. [0044]). Claim 3 is further distinguishable from the cited reference for at least these additional reasons.

As a further example, claim 4 recites "functionality for reporting transaction identifiers of transactions that invoke the Java component, to thereby allow said execution times to be associated with transactions to which they correspond." In contrast, Hind only teaches logging trace data for malfunctioning application programs, not reporting transaction identifiers of transactions that invoke the Java component. Claim 4 is further distinguishable from the cited reference for at least these additional reasons.

New Claims

Claims 5-18 have been added to capture subject matter originally disclosed in the specification.

Claims 5-10 are supported by at least para. [[0049], Table 1].

Claim 11 is supported by at least para. [0050].

Claim 12 is supported by at least para. [0051].

Claims 13-17 are supported by at least para. [0031].

Claim 18 is supported by at least paras. [0037]-[0038].

Examination of claims 5-18 is respectfully requested.

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CONCLUSION

Applicants believe the application, including all remaining claims, is in form for allowance and a notice to that effect is solicited. In the event it would facilitate prosecution of this application, the Examiner is invited to telephone the undersigned at (949) 350-7301.

I hereby certify that this correspondence is being transmitted to the USPTO on the date shown below:

/Mary Jo Bertani/
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